

Sixtieth
Legislative Assembly
of North Dakota

SENATE BILL NO. 2176

Introduced by

Senator Klein

Representative N. Johnson

A BILL for an Act to create and enact section 6-03-02.3 of the North Dakota Century Code, relating to parity of state and national bank powers; to amend and reenact sections 6-01-01 and 6-03-38 of the North Dakota Century Code, relating to the exclusivity of state regulation of financial institutions and credit unions and the uses of bank assets; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 6-01-01 of the North Dakota Century Code is amended and reenacted as follows:

6-01-01. Management and control - State department of financial institutions - Local ordinances preempted. The state department of financial institutions is under the supervision of the state banking board, state credit union board, and a chief officer designated as the commissioner of financial institutions, ~~and known as the state examiner. Whenever the term state examiner is used in this code, it means the commissioner of financial institutions.~~ The state department of financial institutions has charge of the execution of all laws relating to state banks, trust companies, credit unions, building and loan associations, mutual investment corporations, mutual savings corporations, banking institutions, and other financial corporations, exclusive of the Bank of North Dakota. A local governing body may not adopt or enforce a resolution or an ordinance regulating a financial institution or credit union.

SECTION 2. Section 6-03-02.3 of the North Dakota Century Code is created and enacted as follows:

6-03-02.3. Parity for state and national banks. Notwithstanding any state law to the contrary, a state bank has the same powers as a national bank. A state bank may engage, directly or indirectly, in any activity in which a bank could engage if it were operated as a national bank at the time the authority is granted. The authority granted by this section is subject to regulation by the state banking board acting under chapter 6-01.

1 **SECTION 3. AMENDMENT.** Section 6-03-38 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **6-03-38. Assets not to be used in other business - Exceptions - Penalty.** ~~No~~
4 ~~Except as otherwise authorized under this title, a bank, except as otherwise authorized in this~~
5 ~~title, may not~~ employ its money or other assets as principal, directly or indirectly, in trade or
6 commerce, nor may ~~it a bank~~ employ or invest any of its assets or funds in the stock of any
7 corporation, limited liability company, bank, partnership, firm, or association. However, ~~a state~~
8 ~~bank may, to the extent that banks~~ a bank subject to the laws of the federal government ~~are~~ is
9 permitted to do so, a state bank may purchase shares of stocks, or any other type of securities
10 offered by small business investment companies organized and licensed under Public Law No.
11 85-699, known as the Small Business Investment Company Act of 1958 [72 Stat. 689; 15
12 U.S.C. 661 et seq.], and the Small Business Equity Enhancement Act of 1992 [Pub. L. 102-366;
13 106 Stat. 1007-1020; 15 U.S.C. 661 et seq.], and any amendments thereto, or chapter 10-30,
14 but in no event may any state bank hold securities of small business investment companies in
15 an amount determined by the state banking board, but in no event more than ten percent of the
16 bank's capital and surplus. ~~Further, no~~ A bank may not invest ~~its~~ the bank's assets or funds in
17 speculative margins of stock, bonds, grain, provisions, produce, or other commodities, except
18 that it is lawful for a bank to make advances for grain or other products in store or in transit to
19 market. A bank may invest in subsidiary organizations, when the activities of such
20 organizations are incidental or complementary to the bank's activities, with the specific approval
21 of the state banking board for each such subsidiary. The state banking board has the same
22 power to make rules for the subsidiary organizations, and to examine ~~its~~ the organizations'
23 records and affairs, as it has for other financial corporations under section 6-01-04. If the state
24 banking board determines that such investments would be detrimental to the interests of a
25 bank's depositors, ~~it~~ the state banking board may direct the bank to divest itself of such
26 subsidiary investments. ~~In addition, the state banking board has power to authorize state~~
27 ~~banks to engage directly or indirectly in any activity in which such banks could engage were~~
28 ~~they operated as national banks at the time such authority is granted, notwithstanding any~~
29 ~~restriction elsewhere contained in this code.~~ Any officer, director, or employee of any bank who
30 invests or uses ~~its~~ the bank's funds contrary to this title is guilty of a class A misdemeanor.